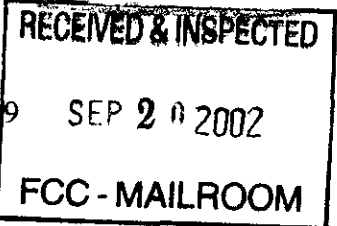


**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

FCC 02M-85
01545

In the Matter of	)	EB Docket No. 02-21
)	
PENINSULA COMMUNICATIONS, INC.	)	File No. EB 01-IH-0609
	)	FRN: 0001-5712-15
Licensee of stations)	
KGTL, Homer, Alaska;	)	Facility ID Nos. 52152
KXBA(FM), Nikiski, Alaska;	)	86717
KWVV-FM, Homer, Alaska; and	)	52145
KPEN-FM, Soldotna, Alaska.	)	52149
)	
Licensee of FM translator stations)	
K292ED, Kachemak City, Alaska	)	52150
K285DU, Homer, Alaska;	)	52157
K285EG and K272DG, Seward, Alaska	)	52158 and 52160
)	
Former licensee of FM translator stations)	
K285EF, Kenai, Alaska;)	
K283AB, Kenai/Soldotna, Alaska;)	
K257DB, Anchor Point, Alaska;)	
K265CK, Kachemak City, Alaska;)	
K272CN, Homer, Alaska; and)	
K274AB and K285AA, Kodiak, Alaska)	



ORDER

Issued: September 18, 2002

Released: September 19, 2002

On September 17, 2002, the Enforcement Bureau ("Bureau") requested the appearance of Mrs. Eileen Becker for cross-examination at the hearing that is scheduled to commence on September 24, 2002. Mrs. Becker is a principal of Peninsula Communications, Inc. ("PCI").

PCI has been granted leave to introduce evidence on state of mind with respect to failing to comply with a Commission termination order. Order FCC 02M-69, released July 19, 2002. Leave was granted subject to the right of Bureau counsel to object and cross-examine. Id. The Bureau also has the burden of proceeding and the burden of proof on the issue designated by the Commission. See Order To Show Cause FCC 02-32, released February 6, 2002 at Para. 9.

By letter dated September 17, 2002, counsel for PCI advised that Mrs. Becker will not be available for the Bureau to question as an adverse witness. PCI also has represented that it will object to the receipt into evidence of her deposition in lieu of her in-court testimony.¹

The Bureau has taken Mrs. Becker's deposition. PCI has been given at least constructive notice when she was deposed that the Bureau may want her testimony presented either in person or alternatively, by agreement, to the introduction of her deposition transcript. Although PCI represents that Mr. David Becker, president of PCI, shall testify to the frame of mind defense, and that PCI does not intend to call Mrs. Becker for that purpose (or any other purpose), she is a principal of PCI as a part owner and she is in a position to have relevant information.

In light of the discretion exercised by the Presiding Judge to permit PCI to put on a frame of mind defense, it is fair and equitable that the Bureau be permitted to question all of the owners of PCI in open court on the question of state of mind.


It is also in the best interest of a complete record that the Bureau be permitted to question Mrs. Becker as in open court on her knowledge of all relevant facts and circumstances on all issues in this case.

Accordingly, IT IS ORDERED that Mrs. Eileen Becker shall be present at the hearing scheduled to commence on September 24, 2002, for the purpose of giving relevant testimony.

IT IS FURTHER ORDERED that Bureau counsel shall to the fullest extent possible try to accommodate Mrs. Becker as to which day and time that she will be called to testify.

IT IS FURTHER ORDERED that the parties shall cooperate to the fullest extent possible to have transcripts of depositions available and reviewed before September 24, 2002.

FEDERAL COMMUNICATIONS COMMISSION²



Richard L. Sippel
Chief Administrative Law Judge

¹ One reason for an objection appears to be that the Becker deposition transcripts have not yet been received and reviewed. Counsel should try to expedite delivery and review.

² Courtesy copies of this Order were faxed or e-mailed to Bureau counsel and to counsel for PCI on the date of issuance.